
LET'S DON'T USE THE "C" WORD ANYMORE

By: Boyd Lyons

After being involved with hundreds of divorce cases over the last 35 years, I am convinced that there is one word that stands as a roadblock to settlement more than any other. That word, is the "C" word—custody.

Although people often fight over the custody of many things in divorce cases (houses, cars, furniture, etc.) usually those battles are couched in other terms, such as "division of property." In the world of divorce "custody" is generally reserved to describe what is to be done with the most precious marital asset of all—children.

Why is custody such a bad word? There are several reasons. First, custody is a win-lose word. If you have custody of something, that means I don't. You win, I lose. No one wants to be a loser. So often the battle over child custody is really about the egos of the parents, not the best interest of a child.

Second, custody is a possessive word. Should we think of children in terms of possession? In fact, children are a beautiful gift to both parents. In most families, neither the parents nor the children think in terms of possessing each other while the family is together. Beginning to think that way when the family is about to split apart can be confusing and is rarely helpful, especially to the children.

Third, custody is an exclusive word. Everybody agrees that it is best for children to experience the love of both parents as much as possible. Children often feel like they have lost a parent when they find out that one parent has "custody" of them and the other one doesn't. It is much better if the child knows that he or she is still loved and guided by both parents, even though they are not living in the same place.

Sometimes we try to soften the blow by describing the relationship as "joint custody", but that can be even more confusing. What do children think that means? Are they going to be split into two persons? How are they supposed to relate to each parent? Who do they look to for guidance?

Unfortunately, custody is a word that is used in most family law statutes to describe the relationship between a divorced or separated parent and their children. That's going to be difficult to change. But as mediators, counselors, family therapists and other professionals—and as parents facing the difficulties of restructuring our family—we don't have to use it.

When I am mediating divorce cases where children are involved, I remind the parties that just because their marriage may be legally dissolved, their family will not be dissolved—just restructured. I ask them to think of their new relationship with their children not in terms of custody, but in terms of a parenting plan. A good parenting plan covers two main areas—the time that the children will spend with each of parent (think about both quantity and quality); and the procedure for major decisions concerning the children's medical care, education, religious upbringing, etc. A parenting plan establishes guidelines for those matters in a way that avoids conflict later. Let's talk about parenting without using the "C" word.

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